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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,540	02/06/2004	Vincent L. Vaillancourt		6492

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EXAMINER
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DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/773,540

Applicant(s)

VAILLANCOURT ET AL.

Examiner

Matthew F. DeSanto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities: spelling mistake, in line 3 of claim 4, "huband" should be changed to "hub and". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 3, 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With regards to claim 2, after carefully reading the specification it is unclear to the examiner how "said cutouts move inwardly". According to the page 8 line 12 of the specification the cutout or points reference number 30 allows for sufficient bending of the "fingers" between the cutouts, which move inwardly. Therefore, it is unclear how the cutouts could move inwardly.

Therefore, the examiner's interpretation of a cutout is the space between the "fingers", thus the cutouts do not flex inward.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 2, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Woehr et al. (USPN 6,117,108).

The examiner would like to clarify his interpretation of the prior art before the rejection. With regard to the “enlarged” portion at an end of the needle, the examiner is interpreting reference number 61 as the “enlarged” portion, since this can be seen in figures 7D, 7E in the certification of correction at the end of the patent, because in figure 7D, the needle is shown with an “enlarged” portion at an end thereof, especially relative to the entire portion of the needle and hub combination.

Woehr discloses a hub (12), a needle (24), a needle guard (26) removably mounted on said hub, said needle guard having a spring clip (96) having a first lock having a first aperture (58), and a second lock (100,118,116) having a plurality of cutouts (the spaces on either side of reference number 118, 116), defining a second aperture (100) receiving said needle; and said needle having an enlarged portion (61) at an end of the needle for passage through said second aperture of said second lock and wherein the enlarged portion is of a greater radial extent than said aperture of said first

lock for abutting against said first lock (see figure 7E) in response to withdrawal movement of said needle relative to said needle guard (see figures 8, 7D, 7E).

7. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Purdy et al. (USPN 5,215,528).

The examiner would like to clarify his interpretation of the prior art before the rejection. With regard to the "enlarged" portion at an end of the needle, the examiner is interpreting reference number 14c, 14d as the "enlarged" portion, since this can be seen in figures 3, 4, 5b, because in figure 5b, the needle is shown with an "enlarged" portion at an end thereof, especially relative to the entire portion of the needle and hub combination.

Purdy et al. discloses a hub (12), a needle (14a) secured to and extending from said hub and having an enlarged portion (14c, 14d) at the end, a housing (16) removably mounted on said hub, said hub having a first lock having a first aperture (70, Column 5, lines 1-5) receiving said needle and a second aperture (shown in figure 5a & 5b being the hole on the surface between reference numbers 48a, 48b to 38a) receiving said needle, said first aperture being of a size smaller than said enlarged portion of said needle to prevent passage therethrough and sized smaller than said enlarged portion of said needle to prevent passage therethrough and said second aperture being of a size larger than said enlarged portion to permit passage therethrough; and a spring clip (58) disposed in said housing for movement between a stressed state (see figure 5a, 5b) against said needle to allow withdrawal of said needle through said second aperture and an unstressed state in the path of said needle after withdrawal of said needle

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thereby to block a return passage of said needle through said second aperture (see figure 5a, 5b, the arrows show the movement of the spring from a stressed state before the needle is retracted to an unstressed state that blocks the second aperture).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brimhall et al. USPN 6,379,333. This reference teaches, a plurality of cutouts and fingers, a washer which is being used as a lock, an enlarge portion on a needle, but fails to teach a spring clip lock.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew DeSanto  
Art Unit 3763  
April 13, 2006